

Civil No. A075027

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FOUR

CHURCH OF SCIENTOLOGY INTERNATIONAL,)
) (Marin County
Plaintiff-Appellee,) Superior Court
) No. 157680)
vs.)
)
GERALD ARMSTRONG,)
)
Defendant-Appellant.)
)

On appeal from the Superior Court of the County
of Marin, the Honorable Gary Thomas

APPLICATION FOR EXTENSION OF
TIME TO FILE APPELLEE'S BRIEF IN OPPOSITION
DECLARATION OF KENDRICK L. MOXON

Andrew H. Wilson
WILSON & CAMPILONGO, LLP
115 Sansome St., 4th Floor
San Francisco, California 94104
(415) 391-3900

Kendrick L. Moxon
MOXON & BARTILSON
550 N. Brand Blvd.
Suite 700
Glendale, CA 91203
(818) 546-5065

APPELLEE'S REQUEST FOR EXTENSION OF TIME
TO FILE OPENING BRIEF IN OPPOSITION

Defendant-Appellant Church of Scientology International herewith requests a 30 day extension of time in which to file its Responding Brief.

This request for a 30 day extension of time, from September 24, 1997 to and including October 24, 1997 is necessary due to the failure of appellant to provide timely service of appellant's opening brief and failure to provide appropriate references to the record in the brief which was filed.

Appellant, proceeding *pro per* was provided several extensions of time within which to file his brief, the last of which required filing and service by August 25, 1997. On September 3, 1997, appellee's counsel received a copy of the Opening Brief, which indicated that it had been mailed from Canada on August 25th. Pursuant to C.C.P. §1013, appellee was entitled to 20 days service time for papers mailed from outside the country.

No election of preparation of an appendix was undertaken by appellant, and he would therefore be required to proceed pursuant to Appellate Rule 5. However, the references in the

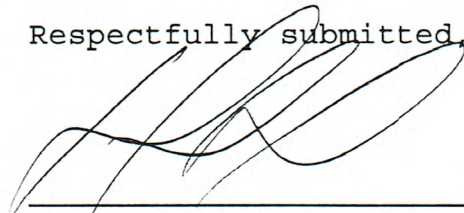
record are utterly incomprehensible. For example, typical record references appearing on page 5 of the brief are to "(CT 5972,3; SS 1A, CT 8412)" and "(CT 5793,4; SS 1A, CT 8412)", etc. If these references are to Bates stamped numbers on pages of record documents, appellees have not been provided the record and have no idea what the specific references are. Appellees will attempt to make sense of this by acquiring the clerk's transcript or filing an appropriate motion to dismiss the appeal.

As set forth in the accompanying Declaration of Kendrick L. Moxon, Mr. Armstrong is out of the country and unavailable to contact to acquire a verbal agreement concerning an extension of time for filing appellee's brief.

In light of the foregoing, appellee respectfully requests a 30 day extension of time within which to file its brief, to and including October 24, 1997.

Dated: September 24, 1997

Respectfully submitted,



Kendrick L. Moxon
MOXON & BARTILSON
Counsel for appellant
CHURCH OF SCIENTOLOGY
INTERNATIONAL

DECLARATION OF KENDRICK L. MOXON

I, Kendrick L. Moxon, hereby declare and state:

1. I am counsel of record for appellant in the instant case. I make the following statements of my own personal knowledge, and if called to testify thereto could and would do so competently.

2. Appellant, proceeding *pro se* was provided several extensions of time within which to file his brief, the last of which required filing and service by August 25, 1997. On September 3, 1997, appellee's counsel received a copy of the Opening Brief, which indicated that it had been mailed from Canada on August 25th. Pursuant to C.C.P. §1013, appellee was entitled to 20 days service time for papers mailed from outside the country.

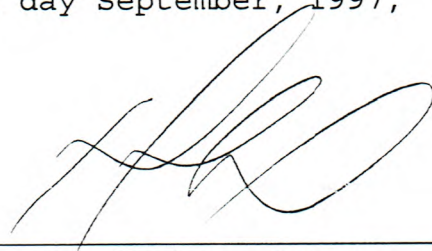
3. No election of preparation of an appendix was undertaken by appellant, and he would therefore be required to proceed pursuant to Appellate Rule 5. However, the references in the record are utterly incomprehensible. For example, typical record references appearing on page 5 of the brief are to "(CT 5972,3; SS A, CT 8412)" and "(CT 5793,4; SS a, CT 8412)", etc. If these references are to Bates stamped numbers on pages of record documents, appellees have not been provided

the record and have no idea what the specific references are. Appellees will attempt to make sense of this by acquiring the clerk's transcript or filing and appropriate motion to dismiss.

4. Appellant, Gerald Armstrong, mailed the appellant's brief from Canada, and has provided no phone number in Canada where he may be reached. I have been unable to reach him to acquire an extension of time for the preparation and filing of appellee's responsive brief.

4. No other requests for extension of time have been requested as to this appeal.

I declare under the penalties of perjury of the laws of the State of California that the foregoing is true and correct. Signed this 24th day of day September, 1997, in Los Angeles, California.



Kendrick L. Moxon

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of California, State of California. I am over the age of eighteen (18) years and not a party to the within action.

On September 24, 1997, I served the foregoing document described as NOTICE OF RULING on interested parties in this action,

by placing the true copies thereof in sealed envelopes as follows:

Gerald Armstrong
c/o George W. Abbott
2245-B Meridian Blvd.
PO Box 98
Minden, NV 89423-0098

Executed on September 24, 1997.

Konrad Luck Wilson

Print or Type Name



Signature